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## MEMORANDUM FOR THE SECRETARY OF STATE

SUBJECT: Non-Proliferation Treaty Safeguards Clause(C)

Our discussions with the Soviets about a safeguards article have revealed a unique opportunity to take a major step toward preventing the clandestine diversion of peaceful nuclear programs to military purposes if our EURATOM allies are willing to accept the application of IAEA safeguards after an agreed transition period.

The Soviets have indicated they can accept a binding safeguards article provided it specifies IAEA safeguards and does not call for inspections of nuclear-weapon parties (Article III acceptable to Soviets attached at TAB A). Having firmly rejected our initial proposal calling for IAEA or "equivalent international safeguards", the Soviets also rejected our suggestion to substitute "effective international safeguards" for their language referring only to "safeguards of the IAEA". However, they acknowledged the need for an agreed transition period (as yet undefined) before IAEA safeguards could be phased into the EURATOM area and said this period could be fixed by a protocol or declaration of understanding.

The Soviets make the following arguments for their position: (a) just as we have insisted on having US inspectors involved in inspection in the Soviet Union in connection with a test ban treaty, the Soviet Union will not entrust inspection of Germany to a group of NATO allies in the case of a non-proliferation treaty; (b) if their Eastern European allies are to be subject to inspection by the IAEA, there must be equality of treatment, with allies of the US (particularly Germany) being subject to the same international IAEA inspection; (c) it is unsound to endorse and perpetuate a regional approach to safeguards; and they ask what our view would be if some of the Arab League countries formed a Near East safeguards organization and who would judge if it was "equivalent to IAEA" or "effective".

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We see no reason to expect the Soviets to yield on this matter. They know their position will be endorsed by an overwhelming majority of potential signatories. Moreover, with no safeguards clause at all, the Soviets would expect EURATOM safeguards to continue to apply to the FRG. We must, therefore, take at face value their statement that if we cannot accept the kind of article they can support, they would prefer no safeguards article at all. In this case they would be strongly supported by such potential nuclear weapons states as India, Sweden and the UAR. These countries have indicated their reluctance to accept the IAEA safeguards if some countries will have the privilege of being inspected solely by their allies.

We, therefore, face a critical choice: Either we grasp this unique chance for US-Soviet agreement on an article applying safeguards to all non-nuclear countries, in circumstances where such joint support is essential to its general acceptance, or we defer to anticipated concerns of certain EURATOM members and settle for a treaty lacking any meaningful safeguards provision, thus abandoning one of our major arms control objectives. The non-proliferation treaty provides our best (and probably our only foreseeable) chance, to achieve the stated US goal of a single, effective system of nuclear safeguards applied worldwide.

Acceptance of IAEA safeguards under a non-proliferation treaty would be a major step in establishing the validity of our concept of appropriate verification of major arms control undertakings. It would be accomplished through an institution established at our initiative and operating according to our concepts of international organization.

Other US interests would also be served. The active and joint participation of Eastern and Western Europeans in the functioning of IAEA safeguards would foster practical cooperation in dealing with the major East-West issue of nuclear controls in Europe. Regarding the Near East, the inclusion of a binding safeguards article would offer our best prospect for achieving the safeguards which thus far the Arabs and Israelis have resisted.

A treaty lacking a meaningful safeguards provision would encounter strong criticism in the Senate when it became known that our deference to EURATOM had prevented US-Soviet agreement

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on such a provision. While such criticism probably would not be strong enough to affect seriously the treaty's prospects for ratification, it would give rise to the argument that our order of priorities is unsound in that we would have sacrificed an important principle in arms control (verification) in order to protect an element of EURATOM's overall function which will become non-essential if IAEA safeguards are generally applied.

In addition to enjoying strong Senate support, a binding safeguards article would also have the firm support of the Department of Defense and the Atomic Energy Commission. Letters expressing such support are attached at TAB B, along with a similar letter from the US Representative to the IAEA.

Acceptance of IAEA safeguards in the EURATOM area need not impair EURATOM's effectiveness or substantive functions. We and others would continue to treat with EURATOM as a corporate entity. France, which can be expected to oppose IAEA safeguards in the EURATOM area, would in fact not be directly affected since, as a nuclear-weapon state, it would not be subject to IAEA safeguards. Moreover, there would be no objection from the Soviets if EURATOM wished to maintain its safeguards while accepting those of IAEA.

The FRG would suffer no discrimination. We would, of course, consult with the FRG in working out means for dealing with anticipated attempts by the GDR to enhance its status under the treaty.

Accordingly, I recommend the following course of action:

1. We should promptly inform our ENDC allies and the FRG initially, and then immediately other EURATOM members, of the results of our negotiations to date with the Soviets on this matter, making clear we see no appreciable flexibility in the Soviet position.

2. We should tell them we attach major importance to inclusion of a meaningful safeguards article and that, accordingly, we plan to explore with the Soviets, still ad referendum pending further consultations with our allies, the following possible arrangement:

- a) Inclusion in the treaty of an Article III along the lines of that appearing at TAB A, with the addition of the words "as soon as practicable" at the end of the first

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sentence, and provided we achieve agreement on the modalities and timing of a transitional arrangement which would be specified in a public declaration;

b) the transitional arrangement would inter alia provide:

(i) that upon the entry into force of the non-proliferation treaty, EURATOM and IAEA would exchange technical information on their respective safeguards procedures with a view to facilitating the application of IAEA safeguards in the EURATOM countries; meanwhile IAEA safeguards would apply to EURATOM nuclear exports sent to non-nuclear weapon countries outside the EURATOM area;

(ii) that at such time as IAEA will have completed arrangements for applying its safeguards to the peaceful nuclear activities of other advanced nuclear countries (informally agreed to comprise India, Sweden, Israel, etc) it will also apply such safeguards in the EURATOM non-nuclear weapon countries (the modalities having been agreed between the two organizations during the transition period); the public declaration might have to include an agreed understanding regarding the time period within which the application of safeguards to all non-nuclear states is to be completed.

3. We should then seek to work out with the Soviets a concrete but ad referendum proposal along the above lines, including in these discussions our respective representatives to the IAEA.

4. If you approve this course of action, ACDA will collaborate with the appropriate Bureaus in the Department of State in preparing the necessary instructions to our Embassies for your approval.

William C. Foster

**Attachments:**

TAB A-Safeguards Article acceptable to Soviets

TAB B-Ltr.fr.AEC-Dr.Saaborg to SecState, 12/23/66

Ltr.fr.DOD-Mr.McNaughton to ASFisher, 12/21/66

Ltr.fr.USRep IAEA Dr.Smyth to SecState, 12/20/66

Clearances: GC-Mr. Burn; ST-Dr. Röchlin

ACDA/IR: SDePalma: aow  
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